

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

LUZ A. NUNEZ,

Plaintiff,

v.

**BRANDON JONES, ROBERT HOPE,
PHILLIP MAPLE, RICHARD PATTEE,
and RICHARD CROSS,** in their individual
capacities as agents of the United States
Immigration and Customs Enforcement,

Defendants.

Case No. 2:18-cv-00375-HL

ORDER ADOPTING F&R

David R. Henretty and Stephen Scott Walters, Oregon Law Center, 522 SW Fifth Avenue, Suite 812, Portland, OR 97204. Jonathan M. Dennis, 988 SW 1st Street, Ontario, OR 97914. Emily Brown-Sitnick, Legal Aid Services of Oregon, Portland Regional Office, 520 SW 6th Ave., Suite 700, Portland, OR 97204. Attorneys for Plaintiff.

Dianne Schweiner, U.S. Attorney's Office – District of Oregon, Civil Division, 1000 SW Third Avenue, Suite 600, Portland, OR 97204. Attorney for Defendants.

IMMERGUT, District Judge.

On November 22, 2022, Magistrate Judge Andrew Hallman issued his Findings & Recommendation, recommending that Defendants' Motion for Summary Judgment, ECF 116, be granted. Findings & Recommendation ("F&R"), ECF 166. Plaintiff filed her objections to the

F&R and Defendants responded. Plaintiff's Objections to F&R ("Pl.'s Obj.") ECF 174; Defendants' Response to Objections to F&R ("Defs.' Resp. to Obj."), ECF 177. With leave of court, Plaintiff filed a Reply Memorandum to Support Objections to F&R ("Pl.'s Reply"). ECF 180.

Following Plaintiff's Notice of Supplemental Authority, ECF 181, this Court remanded Judge Hallman's F&R to consider the amended opinion in *Mejia v. Miller*, 61 F.4th 663 (9th Cir. 2023). ECF 182. Defendants then filed a Supplemental Response to Objections to F&R. ECF 184. On May 3, 2023, Judge Hallman then referred his Amended Findings & Recommendation ("Am. F&R") to this Court. ECF 185. Plaintiff objected to the Amended F&R ("Obj. to Am. F&R"), incorporating her objections to the previous F&R. Obj. to Am. F&R, ECF 190.

This Court has reviewed de novo the portions of the F&R to which Plaintiff objected. This Court accepts Judge Hallman's conclusions and ADOPTS Judge Hallman's Amended F&R in full.

STANDARDS

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R that is not the subject of an objection. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not preclude further review by the district judge, *sua sponte*" whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

CONCLUSION

This Court has carefully reviewed de novo the portions of Judge Hallman's Amended F&R to which Plaintiff objected. Judge Hallman's Amended F&R, ECF 185, is adopted in full. This Court GRANTS Defendants' Motion for Summary Judgment, ECF 116. This case is DISMISSED with prejudice.

IT IS SO ORDERED.

DATED this 27th day of September, 2023.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge